



LEGAL ‘*KISSE*’ OF LAST WEEK

13TH EDITION

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INSOLVENCY & BANKRUPTCY CODE, 2016

- **Once a resolution plan is approved it is binding both on the SRA and CoC and that the AA has limited jurisdiction to interfere with it: NCLAT New Delhi.**
 - **Citation:** *Kalinga Allied Industries India Private Limited Vs CoC (Bindals Sponnge Industries Ltd.) & Anr. //Company Appeal (AT) (Ins.) No. 689 of 2021// NCLAT New Delhi // Para 9.*
 - **Link to Citation:** <https://ibbi.gov.in/uploads/order/2022-12-21-104924-qilux-ebbcfdec43884ec7a61a02d1741630a2.pdf>

- **'Timebound Process' is of paramount importance and prevails over the 'Maximization of Value of Assets' objective of IBC: NCLAT New Delhi.**
 - **Citation:** *Kalinga Allied Industries India Private Limited Vs CoC (Bindals Sponnge Industries Ltd.) & Anr. //Company Appeal (AT) (Ins.) No. 689 of 2021// NCLAT New Delhi // Para 9.*
 - **Link to Citation:** <https://ibbi.gov.in/uploads/order/2022-12-21-104924-qilux-ebbcfdec43884ec7a61a02d1741630a2.pdf>

- **Once a resolution plan is approved the COC cannot consider another plan of any third party even if the same postulates higher offer then SRA: NCLAT New Delhi.**
 - **Citation:** *Kalinga Allied Industries India Private Limited (Supra) // Para 9.*
 - **Link to Citation:** <https://ibbi.gov.in/uploads/order/2022-12-21-104924-qilux-ebbcfdec43884ec7a61a02d1741630a2.pdf>

- **Application under Section 7 cannot be initiated against a NBFC: NCLAT New Delhi.**
 - **Citation:** *Nirmal Kumar Agarwal Vs State Bank of India & Ors. //Company Appeal (AT) (Ins.) No. 983 of 2019// NCLAT New Delhi // Para 11.*
 - **Link to Citation:** <https://ibbi.gov.in/uploads/order/7720f9cc725f629aa7c51d868befc304.pdf>

- **Change in management of the Corporate Debtor cannot extinguish/wipe off past liabilities towards Operational Creditor: NCLAT New Delhi.**



Legal 'Kisse' of Last Week

- **Citation:** *Shah Paper Mills Limited Vs M/s Shree Rama Newsprint & Paper Limited* //Company Appeal (AT) (Ins.) No. 1088 of 2022// NCLAT New Delhi // Para 21.
- **Link to Citation:**
<https://ibbi.gov.in/uploads/order/2ac7594697306744be4b4c11b0d96bc9.pdf>

- **Adjudicating Authority also have the powers to remove the liquidator for reasons it may find fit, just, valid and proper: NCLAT Chennai.**
- **Citation:** *CA V. Venkata Sivakumar Vs IDBI Bank Limited & Ors.* //Company Appeal (AT) (CH) (Ins.) No. 269 of 2022// NCLAT Chennai // Para 48.

- **Claim Based on an uninvoked bank guarantee is liable to be rejected by the Resolution Professional: NCLT Mumbai.**
- **Citation:** *Yes Bank Vs Anish Gupta* // IA No. 461/2022 // C.P. 4359/I&B/MB/2019// NCLT Mumbai // Para 8.
- **Link to Citation:**
https://nclt.gov.in/gen_pdf.php?filepath=/Efile_Document/ncltdoc/casedoc/2709138049222019/04/Order-Challenge/04_order-Challenge_004_1671451671192866431263a054174877d.pdf

- **Moratorium granted by the NCLAT under Sections 241 and 242 of the Companies Act, 2013, is akin to an order passed under Section 14 of the Code: Delhi High Court.**
- **Citation:** *DLF Ltd. Vs IL&FS Engineering and Construction Company* // ARB.P. 1166/2021 // Neutral Citation: 2022/DHC/005697 // Delhi High Court // Para 63.
- **Link to Citation:** http://164.100.69.66/jupload/dhc/VKR/judgement/21-12-2022/VKR21122022AA11662021_182625.pdf

ARBITRATION AND CONCILIATION ACT, 1996

- **Court's authority and the scope of judicial review under Section 11 are extremely limited: Delhi High Court.**
- **Citation:** *Welspun One Logistics Parks Fund I Vs Mr Mohit Verma & ors.* // ARB.P. 792/2022 // Neutral Citation: 2022/DHC/005687 // Delhi High Court // Para 18.



Legal 'Kisse' of Last Week

- **Link to Citation:** http://164.100.69.66/jupload/dhc/NAC/judgement/20-12-2022/NAC19122022AA7922022_165217.pdf
- **Delhi High Court reiterates the yardstick in Section 11-“When in Doubt, do refer”.**
 - **Citation:** *Welspun One Logistics Parks Fund I (Supra) || Delhi High Court || Para 18.*
 - **Link to Citation:** http://164.100.69.66/jupload/dhc/NAC/judgement/20-12-2022/NAC19122022AA7922022_165217.pdf
- **Dispute between parties under a “Non-Binding Term Sheet” can be referred to Arbitration: Delhi High Court.**
 - **Citation:** *Welspun One Logistics Parks Fund I (Supra) || Delhi High Court || Para 19.*
 - **Link to Citation:** http://164.100.69.66/jupload/dhc/NAC/judgement/20-12-2022/NAC19122022AA7922022_165217.pdf
- **Order dismissing application for impleading a third party cannot be challenged under Section 34: Delhi High Court.**
 - **Citation:** *National Highway Authority of India Vs Lucknow Sitapur Expressway Limited || O.M.P. (COMM) 477/2022 || Neutral Citation: 2022/DHC/005696 || Delhi High Court || Para 18.*
 - **Link to Citation:** http://164.100.69.66/jupload/dhc/YVA/judgement/22-12-2022/YVA22122022OMPCOMM4772022_144950.pdf
- **Reference to Arbitrator under Section 34(4) to correct the errors in Arbitration cannot be taken or made suo moto by Court: Delhi High Court.**
 - **Citation:** *MBL Infrastructures Limited Vs Telecommunication Consultants of India || FAO (OS) (COMM) 70/2021 || Neutral Citation: 2022/DHC/005685 || Delhi High Court || Para 17.1.*
 - **Link to Citation:** http://164.100.69.66/jupload/dhc/TWS/judgement/23-12-2022/TWS20122022FAC702021_172353.pdf
- **Court under Section 34 can only quash or affirm the award, but cannot correct or modify it: Delhi High Court.**
 - **Citation:** *MBL Infrastructures Limited (Supra) || Para 17.1.*
 - **Link to Citation:** http://164.100.69.66/jupload/dhc/TWS/judgement/23-12-2022/TWS20122022FAC702021_172353.pdf



Commercial Court Act, 2015

- **Advertiser must have freedom to make ads with generic comparison, and the same can't be objected to unless such representation is absolutely misleading: Delhi High Court.**
 - **Citation:** *Zydus Wellness Products Ltd. Vs Dabur India Limited*|| CS (COMM) 304/2022 || Delhi High Court || Para 43.
 - **Link to Citation:** http://164.100.69.66/jupload/dhc/PMS/judgement/23-12-2022/PMS22122022SC3042022_164452.pdf

- **Ads having no direct reference or comparison to a product cannot be presumed to target the product: Delhi High Court.**
 - **Citation:** *Zydus Wellness Products Ltd. Vs Dabur India Limited*|| CS (COMM) 304/2022 || Delhi High Court || Page 39.
 - **Link to Citation:** http://164.100.69.66/jupload/dhc/PMS/judgement/23-12-2022/PMS22122022SC3042022_164452.pdf

- **Market Share cannot be the sole ground to determine whether an Advertisement is directed towards market leader: Delhi High Court.**
 - **Citation:** *Zydus Wellness Products Ltd. Vs Dabur India Limited*|| CS (COMM) 304/2022 || Delhi High Court || Para 45.
 - **Link to Citation:** http://164.100.69.66/jupload/dhc/PMS/judgement/23-12-2022/PMS22122022SC3042022_164452.pdf

- **Design piracy under Section 22 arises only where the allegedly infringing design is an obvious or a fraudulent imitation of the suit design: Delhi High Court.**
 - **Citation:** *Diageo Brands B.V. & anr Vs Alcobrew Distilleries India Pvt Ltd* || CS(COMM) 30/2022|| Delhi High Court || Para 173.
 - **Link to Citation:** http://164.100.69.66/jupload/dhc/CHS/judgement/20-12-2022/CHS19122022SC302022_214327.pdf



Legal 'Kisse' of Last Week

Prevention of Money Laundering Act, 2002

- **Interim bail on medical grounds may not be granted only at a stage when the person is breathing his last or is in a position that he may not survive: Delhi High Court.**
 - **Citation:** *Vijay Agrawal through Parokar Vs Directorate of Enforcement// Bail Appln 1762/2022 // Delhi High Court // Para 15.*
 - **Link to Citation:**
http://164.100.60.183/dhcqrydisp_o.asp?pn=350615&yr=2022

